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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,067	09/11/2003	Bart De Laender	7001-72	6186

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EXAMINER

WILKENS, JANET MARIE

ART UNIT	PAPER NUMBER
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3637

DATE MAILED: 12/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/660,067

Applicant(s)

LAENDER ET AL.

Examiner

Janet M. Wilkens

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-63 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-63 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1/5/2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

Information Disclosure Statement

The information disclosure statement filed January 5, 2004 fails to comply with 37 CFR 1.98(a)(2), which requires a legible complete copy of each foreign patent. Namely, only the English abstract of Chinese patent 1,313,231 was received by the Office.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 5 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Namely, the description of the top support member with respect to Fig. 1 appears to be incorrect. Cross supports 24 appear to be one solid plate member while plate 26 appears to be a plurality of spaced slat members.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2, 4, 5 and 21-63 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. For claims 2 and 23, it is unclear

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whether or not the "a flat surface" is the same surface disclosed previously. For claims 21 and 42, it is unclear how an oval block can also be described as hexagon, diamond or kite shaped. For claim 22, "the at least two support blocks" lacks antecedent basis. Note: "a plurality of support blocks" was the feature claimed previously. For claims 4 and 25, it is unclear whether or not the "a lifting member" and the "a lifting position" are the same member and position claimed previously. For claim 31, it is improper to broaden the densities' range. This does not "further limit" the subject matter in the claims. For claims 43 and 60, it is unclear whether or not the "a top support member" in lines 5-6 is the same top support member claimed previously. For claim 46, "the thermoplastic resin" lacks antecedent basis. For claim 47, "the polypropylene" lacks antecedent basis.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 6, 7, 16, 17, 19, 22, 23, 27, 28, 37, 38, 40, 43, 44, 53, 54, 56, 57, 60 and 61 are rejected under 35 U.S.C. 102(b) as being anticipated by Ausavich. Ausavich teaches a pallet (Fig. 10) comprising: a top support member (3), oval support blocks (1) and a bottom support member (2,2',2"). The blocks can be constructed of thermoplastic polyolefin (polypropylene or polyethylene) and filler, such as wood flour or particles (see

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column 4, lines 59-64). The blocks each have two flat ends on opposite sides thereof which follow along a longitudinal axis.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3-5, 24, 25, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ausavich et al in view of British patent 832,844. As stated above, Ausavich teaches the specifications of claims 1 and 22, including top and bottom support members with support blocks in between. For claims 3, 4, 24 and 25, Ausavich fails to specifically teach three rows of three blocks and for claims 5 and 26 fails to teach three upper cross supports. The British patent teaches a pallet (Fig. 1) comprised of a top member with top support members (4, upper members) and upper cross support members (4, middle members), three sets of three support blocks (2) and a bottom support member (4, bottom members). First, it would have been obvious to one of ordinary skill in the art at the time of the invention to add three middle support blocks in the pallet of Ausavich, such as is taught by the British patent, to provide additional support to the center portion of the pallet structure. Second, it would have been obvious to add three support planks between the top member and blocks of Ausavich,

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such as is taught by the British patent, to provide even more support to the top member of the pallet.

Claims 8-15, 18, 29-36, 39, 45-52, and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ausavich et al. As stated above, Ausavich teaches the specifications of claims 1, 6, 7, 17, 22, 27, 38, 43, 44 and 54, including top and bottom support members with plastic/wood support blocks in between. For claims 8-15, 18, 29-36, 39, 45-52, and 55, Ausavich fails to teach specific densities/particle diameters for the materials and/or concentrations of materials used in the blocks. It would have been an obvious design consideration to one of ordinary skill in the art at the time of the invention to modify the support blocks of Ausavich by using different materials, different combinations of materials having different densities, particle diameters, concentrations of material, etc, depending on the desired need of the person constructing the pallet, e.g. depending on block strength properties desired/required, the materials readily available, personal preferences, etc. It would also have been an obvious consideration to use different types of wood and plastics, including polyesters, epoxies and vinylesters, for the same reasons stated above.

Claims 20, 21, 41, 42, 58, 59, 62 and 63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ausavich et al in view of Breezer et al (5,351,628). As stated above, Ausavich teaches the specifications of claims 1, 19, 22, 40, 43, 56, 57 and 60, including top and bottom support members with support blocks in between. The support blocks have flat ends on the first and second sides (see Fig. 1). For claims 20, 21, 41, 42, 58, 59, 62 and 63, Ausavich fails to specifically teach that the ends of the

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third and fourth sides are also flat. Breezer teaches a pallet (Fig. 1) having support blocks (34,36) with more than six flat sides, including having first, second, third and fourth flat ends. First, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the ends of the support blocks of Ausavich by adding flat portions to its third and fourth sides, such as is taught by Breezer, for aesthetic reasons. Second, it would have been an obvious design consideration to make the blocks various shapes, including a shape with six or more flat sides, such as is taught by Breezer or known in the art, also for aesthetic reasons.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janet M. Wilkens whose telephone number is (703) 308-2204. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (703) 308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Wilkens
December 8, 2004


JANET M. WILKENS
PRIMARY EXAMINER
Art Unit 3637